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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 62nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 30 April 1999, at 10 a.m.

Chairperson: Ms. ANDERSON (Ireland)

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CLOSURE OF THE SESSION

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GE.99-13180 (E)

The meeting was called to order at [illegible]

DRAFT RESOLUTIONS CONTAINED UNDER AGENDA ITEM 4 (continued)

Draft resolution E/CN.4/1998/L.[illegible]: Independence of judges and lawyers

Mr. ARSANJANI [Observer, Human Rights Internet] said that, despite the progress in between the signature of draft resolution E/CN.4/1998/L.[illegible] and the presentation of document E/CN.4/1998/L.[illegible], the text of which he had just received, a number of issues had been raised under the heading of the right to a fair trial. While the thrust of the draft was the protection of all persons from arbitrary detention, it failed to address the question of the independence of the judiciary and lawyers in relation to the protection of the human rights of the accused. Furthermore, in the face of the fact that Islam was recognized as and actually constituted multifarious religious and cultural aspects of the life of the Muslim people, the draft resolution made no reference to the Islamic concept of fair trial and guarantees and did not even mention the Islamic Shariah. The delegation of the Organization of the Islamic Conference (OIC) was unable to accept the draft resolution in its present form.

Mr. [illegible] (Observer for Pakistan) said that the draft resolution was a welcome initiative and that his delegation was prepared to join in the consensus on it. However, it was important to maintain a balance between the rights of the accused and the rights of the victims of crime. Accordingly, his delegation would like to see a reference to the right to a fair trial in paragraph [illegible] of the draft resolution. Also, his delegation would like to see a reference to the Islamic Shariah in the preambular part of the draft resolution. Lastly, his delegation would like to see a reference to the Universal Declaration of Human Rights in paragraph [illegible] of the draft resolution.

Mr. [illegible] (Observer for Egypt) said that his delegation had not had time to examine carefully the new draft before the Commission. While different perspectives from the original version. His delegation welcomed the fact that the draft took into account the comments of the various Governments, including those of the European Union, and the organization of the Islamic Conference should be in a position to join in a consensus decision on the draft. Emphasizing the lack of transparency which had characterized the negotiations, and noting that the new draft did not fully reflect the views of the Islamic group, his delegation had reserved the right to call for the draft to be submitted to a vote. It was hoped that the Commission would proceed in the same way in the future and that fully open meetings of the Commission.

Mr. [illegible] (Observer for Egypt) said that the consultations which had taken place had been open to all delegations.

Mr. [illegible] (Observer for United Arab Emirates) said that, thanks to the cooperation of the delegations of the Arabic and the organization of all concerned, the difficulties had been resolved. Islamic was a country most of whose inhabitants were human rights, but rather all the world's great religions were practiced there and the Constitution guaranteed freedom of conscience and religious [illegible]. He warmly thanked the OIC countries [illegible] at the negative attempt going to Islam and stressed the need to promote religious tolerance and eliminate [illegible] with a view to promoting international understanding and avoiding a "clash of civilizations". He was glad that the wording of [illegible] and felt that

[illegible] which were rooted in religious extremism, affected all religions. The new draft reflected the concerns of all parties, and he hoped that it would be adopted by consensus.

3. Mr. LAMAH (Chile) congratulated the delegations which had contributed to the success of the consultations. In his country the principle of separation of Church and State was guaranteed and religious freedom was respected. The successive flows of immigrants who had entered the country had become harmoniously integrated in the national fabric, and their contributions, including in particular that of the Islamic community, had enriched the national heritage. All forms of intolerance, especially religious, represented a threat to national peace and security, and every State was called upon to take measures to combat the phenomenon. His delegation shared the EU country's view on various instances of non-tolerance against Israel and wholeheartedly supported draft resolution E/CN.4/[illegible] as a [illegible].

4. Mr. CHEN Yuanlai (China) said that paragraph 3 of the draft decided the High Commissioner to consider the holding of seminars to promote a dialogue between cultures, and that there no provision in that and was necessary in the programme budget for 2000-2001 of the proposed programme budget for 2000-2001, such activities would be funded from extrabudgetary resources should not be made available for that purpose.

5. Draft resolution E/CN.4/1999/L.[illegible], as orally amended, was adopted without a vote.

6. Mr. STUERZ (Germany), speaking on behalf of the States members of the European Union and of the co-sponsors of the draft amendments in document E/CN.4/1999/L.91, expressed satisfaction that a decision without a vote had finally become possible and thanked the EU countries and other delegations for their cooperation in producing a compromise text. The last minute agreement reached should not, however, hide the fact that a high degree of uncertainty remained as to the expediency of the Commission's continuing to deal with the issue in that way and in that context. Thorough discussions on that subject were called for, and he was pleased to hear that the EU countries were favourable to the idea. The draft which had been adopted should not be allowed to remain a dead letter. All States should endeavour to ensure that no religion was invoked as a pretext for violating human rights or conducting terrorist activities. While joining the consensus on the draft the Member States of the European Union wished to make it clear that they did not attach any legal meaning to the term "defamation" as used in the title.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 1) (continued)
(E/CN.4/1999/1 and 101; E/CN.4/1999/CRP.4)

Question of Kosovo

7. Mr. ROBINSON (United Nations High Commissioner for Human Rights), reporting on the situation concerning Kosovo, having recalled the origins and development of the conflict, said that some facts were beyond dispute: over half a million people had fled Kosovo into neighbouring countries; thousands of people were internally displaced inside Kosovo, numerous women and children had reached refuge outside Kosovo separated from their family, whose

justice and accountability would be a crucial element of any progress towards peace, reconstruction and reconciliation. UNHCR, for its part, would continue to fulfil its task of protecting the refugees and, in due course, helping them to return home.

DRAFT PROVISIONAL AGENDA FOR THE FIFTY-SIXTH SESSION OF THE COMMISSION (agenda item 21 (a) (E/CN.4/1999/L.1)

19. The CHAIRPERSON drew attention to the draft provisional agenda for the fifty-sixth session of the Commission (E/CN.4/1999/L.1), which contained the list of documents relating to each agenda item. If there were no objections, she would take it that the Commission wished to take note of the document.

20. It was so decided.

REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE FIFTY-FIFTH SESSION OF THE COMMISSION (agenda item 21 (a); E/CN.4/1999/L.11 and Addenda; E/CN.4/1999/L.11 and Addenda)

21. Mr. CHAITIL (Vanuatu), Rapporteur, introducing the draft report of the Commission on the work of its fifty-fifth session, said that it was composed of two parts. The first (E/CN.4/1999/L.11 and Add.1-7) was a compilation of the 62 resolutions and 21 decisions adopted by the Commission. The second (E/CN.4/1999/L.11 and Add.8-17) contained a description of the work of the Commission and, in particular, of the general debate and of the voting on resolutions and decisions under various agenda items. It also included the texts of four statements made by the Chairperson. In order to make the report more readable, the contents of the adopted texts were presented in the form of a synoptic table which would eventually appear as annex I to the report. For the present, the table was issued under the symbol E/CN.4/1999/WG.1/L.1.

22. The Commission's report was essentially concerned with the technical aspects of the work of the session. All substantive issues of the Vienna Declaration and Programme of Action relevant to the mandate of the Commission pursuant to General Assembly resolution 48/141 and the Secretary-General's report (E/CN.4/1999/28 and Corr.1) were dealt with in chapter II, containing resolutions and decisions adopted by the Commission. Chapter I contained draft resolutions and draft decisions recommended for adoption by the Economic and Social Council, while chapter II, containing resolutions and decisions adopted by the Commission, would be available for examination at the next session of the Council in July 1999. Lastly, it should be recalled that Governments had a week in which to make corrections to document E/CN.4/1999/L.11 and addenda and to draft annex I to the report.

23. The CHAIRPERSON said that, as at previous sessions, the draft report would be adopted ad referendum, it being understood that the definitive version would be prepared by the Rapporteur with the assistance of the Secretariat. If she heard no objection, she would take it that the Commission agreed to that procedure.

24. It was so decided.

[illegible]

[illegible] Ms. ROBINSON (United Nations High Commissioner for Human Rights) said that the results achieved during the session had dissipated what worries she might have had at the start. The international community had reacted [illegible] to the appalling situation in Kosovo by adopting resolutions condemning massive violations of human rights, promptly sending human rights envoys to the area and beginning human rights monitoring there. She had provided the Commission with four weekly reports on human rights violations in Kosovo. She would continue to monitor the situation, to gather and verify information and to report periodically to the Commission. In that connection, she regretted that she would shortly be travelling to the region in order to make a first-hand appraisal of the human rights situation and to assess the possibilities of monitoring activities. If the need arose, she would consult the Bureau about the possibility of holding an emergency session of the Commission.

[illegible] The Commission had shown that when gross violations of human rights occurred, it could play its part in upholding justice and ensuring that those responsible for such violations did not go unpunished. The session had also been marked by a number of other noteworthy developments. For the first time in several years, the Commission had decided to take a country situation out of the confidential procedure and had made that situation the subject of its first resolution under the open procedure. She, for her part, had been very preoccupied by the situation in Sierra Leone and intended making a visit there in June 1999.

[illegible] The Commission had also made important progress in preparing for the World Conference on Racism. It had continued to insist on the indivisible and interdependent relationship between civil and political rights and economic, social and cultural rights. She too was determined to play her part in pursuing an integrated approach to human rights and in that spirit, working together with the independent expert on the right to development, had arranged to assemble at Geneva on 10 and 11 May a group of thinkers to advise on the most effective ways of promoting that right. The Commission's debate on children had demonstrated a resolve to ensure the universal implementation of the provisions of the Convention on the Rights of the Child.

[illegible] The participants in the first Hague Peace Conference in 1899 had wanted to build a world in which suffering from war would be lessened. A hundred years later, despite the progress made in the codification and development of international law and the establishment of numerous courts and similar institutions to entrench the principles of legality and justice at the national and international levels, civilian populations, including women and children, were being increasingly targeted in conflicts. In that context, the work of the Commission's Special Rapporteurs and Working Groups, its debates on particular situations and the field presences of the Office of the High Commissioner took on special meaning.

[illegible] The adoption of the Declaration on Human Rights Defenders had been one of the great achievements to mark the fiftieth anniversary of the Universal Declaration of Human Rights. For the time being, the best way in which all States could demonstrate the importance they attached to the Declaration was

by ensuring that members of non-governmental organizations (NGOs) who had come to bring certain situations to the Commission's attention would be able to return home and continue their work in safety.

30. The increasing participation of representatives of national human rights institutions in the work of the Commission was particularly encouraging as evidence of the growing awareness in different regions of the world of the benefits to be derived from partnership and cooperation in the human rights field. The Commission was increasingly taking on the characteristics of a global assembly of Governments, national institutions and NGOs. The adoption of a resolution on the development and enhancement of regional and subregional cooperation was particularly welcome. The current session had made it clear that international cooperation for capacity-building at the national level was a cornerstone of the human rights endeavour. Her Office shared that view and would spare no effort to fulfil the tasks assigned to it in that field. The importance it attached to the matter was demonstrated by the record number of technical cooperation projects it had initiated over the past year.

31. Lastly, she welcomed the adoption of the resolution on strengthening the Office of the High Commissioner and was also pleased by the consensus achieved on enhancing the effectiveness of the mechanisms of the Commission. It was to be hoped that the international community would continue to be guided by a shared sense of purpose and determination to contribute tangibly towards the promotion and protection of the rights of children, women and men across the globe.

32. The CHAIRPERSON said that, the fifty-fifth session of the Commission, like all other sessions, had been a difficult exercise, some members having to accept decisions with which they disagreed and others having to see no action taken on causes close to their hearts. Once again, the breadth and depth of human misery and the gap between standards and reality, between the need for action and the capacity to act, had been made evident to everyone.

33. The Commission's work on country situations had been particularly sensitive; the discussion on review of mechanisms had thrown into relief some sharply differing views about the direction its future work should take. On Kosovo, the Commission had faced up to its responsibilities by devoting a special debate to the question and by adopting three resolutions and hearing weekly updates on the situation from the High Commissioner on Human Rights. It was reassuring, especially to those concerned about the danger of fossilization of the Commission's work, to note that the resolutions adopted reflected evolving situations, be they positive or negative. On the question of review of mechanisms, consensus had been found in the form of an open-ended intersessional working group.

34. Statistics prepared by the Secretariat showed that 37 visiting dignitaries, most of them at ministerial level, had addressed the session, a fact which demonstrated the significance attached to the Commission, and that 82 resolutions had been adopted, including 58 by consensus. What mattered now was to put those resolutions into practice. The new agenda of the Commission had proved a success and substantial progress had been achieved in connection with a number of agenda items, in particular by the working group set up to formulate proposals for the World Conference on Racism. Among

the Participants in the session who also noted the address by the Secretary-General, the dialogue on the rights of the child, the panel on the rights of women and the input received from several regional and national human rights institutions.

11. The Head considered the Commission's role with regard to and with the assistance in cases of human rights violations around the world. She had had a number of meetings with non-governmental, many of whom had travelled from afar at considerable expense. Several of them had expressed frustration at the end of the session and had raised questions concerning transparency, the role of the rapporteur and the merits of participating within the Commission. She was convinced that if the value of the NGOs was to continue to be shared fully and freely in the Commission, the question of time management would have to be reviewed. In particular, the small number of NGOs who made presentations in the open session under a very tight time limit to address issues that could be important to a large number of organizations with different representations.

12. The Special Rapporteurs and independent experts were doing an extremely important service for the international community. The Commission on the Rights which had appointed them was rightly keen to ensure the basic integrity of it and challenged when its basic safety standards were threatened, and to seek a solution to the dilemma between the importance of their task and the resources available to support them. Their participation in the work could certainly bear improvement, with a few exceptions, they had made very limited reports to the Commission. It was to be hoped that the meeting with an increased number of mechanisms would increase the quality of dialogue with the Commission.

13. Turning to the Government, she said that they certainly had responsibility to maintain the basic principles of international human rights. They had not been guilty, despite the assertions that had sometimes been made, of using human rights as a political weapon. Nor had they been accused in the course of the session of a misuse of human rights for political purposes. Universal acceptance of principles of human rights.

14. Among those who had participated actively in the session, she wished particularly to thank the representatives of the United Nations Human Rights Commissioner and Deputy High Commissioner for Human Rights, and the staff of the High Commissioner's office, the conference services and the press. In view of the resource-related questions of many human rights activities, she had decided not to offer the Government hospitality by the Chair and, instead, to contribute the Nobel Peace Prize allocated to her authorities for that purpose to the United Nations Trust Fund for the Implementation of the Convention on the Rights of the Child. The contribution would appear as a donation in the name of all participants in the session.

15. In conclusion, recalling that in her opening statement she had expressed the hope that the Commission would "take responsibility", she said that in many respects she believed it had done so in adopting many resolutions, in finding a compromise outcome on review of mechanisms and in trying to shape a response to outside developments taking place during the session. In other respects, the answer was more reassured. Thus, she still felt the lack of a convincing answer to charges of selectivity on the part of the Commission. It

was necessary to make sure that the moral outrage provoked by the Kosovo crisis did not become blunted when other conflicts arose in other parts of the world. Neither should the Commission forget the disappointment felt by those who, believing in the justice of their cause, felt that the Commission had failed them. Be that as it might, and notwithstanding all human and institutional shortcomings, it would be a mistake to minimize the work done during the past six weeks and to underrate the collective impact of the Commission's debates and resolutions, for every step on the human rights road, however modest, was important. For her part, she felt truly privileged to have participated in that worthy endeavour.

40. After the customary exchange of courtesies, the CHAIRPERSON declared the fifty-fifth session of the Commission on Human Rights closed.

The meeting rose at 12.10 p.m.